

**SEAPRAP RESEARCH
REPORT NO. 76**

**EFFECTIVENESS OF THE MINIMUM
MARRIAGE AGE LAW IN BANGKALAN**

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I N T R O D U C T I O N

Compared to the growth of jurisprudence which is dogmatic in nature, the development of law which is non-dogmatic in nature can be said to be relatively new. Therefore, an increase in the empirical knowledge in this new field of study is greatly needed. An effort in that direction is pioneered among other things by controlling the workings of law in the community. Law is enacted not only for self-fulfillment or to keep up with changes that have occurred in society, it is specially passed to enable changes that are planned for the development of the society.

In practice, not all laws that act as innovators of development are able to achieve the desired aim. In the Bangkalan regency of Madura for example, the provision of the Minimum Marriage Age - which is found in the Ordinance No. 1, 1974 - has given a rather unsatisfactory picture. There are at least two main issues that need attention when a law - which functions as social engineering - still hopes to work effectively. Firstly, it is the conflict of traditional values with the values that are contained in the law. Secondly, a large proportion of law enforcers - especially in the rural areas - still tend to adopt an attitude of compromise towards the local norms of practice.

In contrast to the study of dogmatic law, the study of non-dogmatic law regards law as a social element that exists among other social elements in a unified social system. The relationship between these social elements may be correlative in nature, even interactive, or they could have no influence on each other. Where there is a relationship, a social change may begin in a certain social institution and then penetrate the other social institutions.

There is no doubt that there is no existing society which has not experienced change. Sooner or later every community experiences the process of change and the changes in a society will have an influence in the changes in law. In a situation where it is a dependent variable, law will not be able to remain unchanged. This is

because law should always be readily prepared to help service the needs of the community. Law which is unable to function in such manner will lose its effectiveness and the confidence and trust that the society has of it as the necessary means of conduct such that at a certain stage it will be omitted by the community. In this context we may further ask to which extent such social changes cause a change in law.

Although the above problem is interesting, what is more striking at present, both from the theoretical and practical point of view, is the problem that concerns the community being left behind after there has been a change in the law. In this case law does not only function as the coordinator of the community to ensure an orderly and harmonious world but specially functions as the driving force for change that has been planned in the area of the community's social pattern of living. The extent of the problem, therefore, does not only revolve around the problem of renewing or revising a certain law to suit the dynamics of the community, but goes further by questioning the conditions that are needed so that the law which is specially designed - to organize social change - may work effectively.

The difference in opinion between the parties which feel that law should complement social changes and the parties which feel that law represents a tool for social change, can be considered as a crucial problem in the development of jurisprudence. There are at least two great figures who each uphold this difference in opinion, von Savigny and Bentham. According to Savigny, law should not be formulated but should be discovered. Thus, if the customs and traditions have been faithfully practised, only then can the norm be approved as law.

On the other hand, Bentham who is well known for his line of thought, says that law which has been rationally constructed may be used to make social change. Bentham's thoughts played an important role in his own country, Great Britain, during the 19th century. Bentham's influence has been so strong that the English Parliament is active in creating social reforms by using the law as their tool. However, it cannot be denied that social needs also play a role in the process of social reformation.

In line with Bentham's philosophy above, the area of interest in this study also includes the question of whether changes in law manage to cause social change. When the two issues mentioned above are compared it will be seen that the gist of the first question sees law as the means to sustain social stability and the second problem considers law as the tool of social engineering.

The implementation of law to function as social engineer, according to the experience of several countries did not always achieve the desired results. S. F. Kechekyan¹ speaking for Soviet Russia confessed that law had succeeded in playing a creative role. In Turkey, the experience was varied. The Turkish government used law as a tool of social engineering by adopting the conditions of western law (Swiss law). The results show a social change in the neutral areas such as that in commerce. However, outside of that area, such as in the family, law has not managed to penetrate effectively.

For the purpose of this research it is highly relevant if we test the application of the new marriage law as practised in Israel. In the Marriage Ordinance one of the rules was that the minimum marriage age should be 17 years. The proviso also included penal sanctions for those who broke the law or those who abetted others in the breaking of the law.

It should be clarified that the reasons behind the rules stated in the article are actually two minimal aims that they hope to achieve. They hope to change the customary practice of marrying at a very early age in Israeli society and at least, to have the marriages registered. When a study on the working of the law was conducted in Israel it was found that there was hardly any registration of marriage. This happened because the people were reluctant to comply with the regulation.

Apart from the above-mentioned countries, Parviz Saney² reports that the provision of the minimum marriage age in Iran did not succeed in decreasing the marriage frequency below the minimum age that has been set. The reason, among others given, is that the social conditions

1. S. F. Kechekyan - Social Progress and Law. 6 Transactions of the third world congress of sociology 42.

2. Parviz Saney - Law and Population Growth in Iran. Law and Population Monograph Series, No. 21, 1974.

and customs are strong enough to weaken the effectiveness of the said law. Similarly in Kenya, according to Uche,³ marriage based on common law tends to accept conditions which do not meet those that have been specified.

In Indonesia, research on the effectiveness of fixing the minimum marriage age has never been conducted. Yet, according to Yasmine S. Al Hadar⁴ it should be observed that in general, each ethnic group in Indonesia embraces the same principle, i.e. they desire an early marriage for their children for various reasons. Among the Batak people for example, a father would desire to see his children marry early because he would like to have male grandchildren. This sentiment arises because a man would lack self fulfillment if he did not have male descendants. However, among the Javanese and Sundanese, fear of reprisal from the community or a feeling of shame (disgrace or scandal) in the family may be considered as stimulant factors that make the parents marry off their children at an early age.

Apart from the theoretical explanation above, a research on the effectiveness of fixing the minimum marriage age will prove very useful. This is because, since the implementation of the Five Year Development Plan in Indonesia, it was felt that the results of development will be minimal if the rate of population increase is not controlled to match the progress of the Plan. Endeavours to decrease the rapid population growth may be taken through the application of several disciplines of knowledge, among which is jurisprudence.

As has been expounded earlier, in the realm of development in Indonesia today, law does not only function as a tool of social order but may also be made to function as a tool of social change. Law should be able to change the habits of the community which are not favourable to development. One of such customary habits that is detrimental in nature is the practice of marrying off the children at a relatively early age.

3. Uche - Law and Population Growth in Kenya. Law and Population Monograph Series, No. 22, 1974.

4. Yasmine S. Al Hadar - Marriage and Divorce in Indonesia. Institute of Demography, Faculty of Economics, University of Indonesia, 1977.

It is understandable why this customary practice continues in several regions of Indonesia. As it is already known, a large proportion of the inhabitants of the Nusantara Islands embrace Islam. The teachings of Islam do not give a definitive minimum age for marriage. The standard measure that is used to acclaim maturity for the girls is the period before or the period after puberty (menstruation). Apart from this definition which is relative in nature, they do not feel obliged to other stipulations. Hence, the ideal minimum marriage age varies from one community to another.

As has been stated by Yasmine Al Hadar, the practice in many regions is to let the children marry at a very early age. Such marriages are prone to result in more offsprings compared to marriages at a later age. This conclusion can be accepted because the womenfolk who marry very young will have a longer span of reproduction than those who marry when they are older. Taking this into account, i.e. the possible continuation of this customary practice which is generally conservative in nature, as well as the urgency of the population problem that demands to be solved - law will therefore have to play a positive role in the social development of Indonesia. One of the population problems that is faced by Indonesia is the rapid population growth of an already dense population. This seems to be the logical consequence of a high birth rate. If it is true that the degree of high fertility is due to the long reproductive period of the Indonesian women, then an effort to shorten the span of reproduction will help to lessen the total birth rate in the country.

Depending on the accuracy of the above view, the Indonesian government has implemented the new Marriage Ordinance, i.e. Undang-Undang No. 1/1974 - which among other things includes the principle that the bride and groom should be physically as well as spiritually mature. This principle is designed to fulfil the sublime aim of marriage as well as to have healthy and better descendants. Furthermore, it was strongly stated that marriage of children below the minimum age should be prevented, the reason being that each marriage will be closely linked to the population problem.

From the explanation of the above principle it appears that the

people who formulated the law realised that the lower marriage age for women could result in an increase in the high birth rate. For this reason the new marriage rules have set the minimum age for marriage as 19 years for the men and 16 years for the women. It is hoped that the implementation of this law will function in its social engineering, ie. it will work to decrease the reproduction span of the female community and therefore lead to a smaller birth rate.

It has been realised that the use of law to create social changes has its limits. Several scholars including C. B. Howard and R. S. Summers,⁵ William Evans,⁶ C. J. Dias,⁷ and Arnold M. Rose⁸ have done research on this area of study. They point out the conditions that should be completed so that a provision of law should be sufficiently invulnerable for the creation of social change. According to Rose, the effectiveness of using law as a tool to change society depends on the areas of living in which a change is desired, and also on the officials of law who become the pioneers of change. For this reason our research is conducted to determine if law is able to act effectively in changing the marriage pattern of the community in Bangkalan regency, Madura. The research procedure is explained in the next chapter.

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5. C. B. Howard and R. S. Summers - Law: Its Nature and Limits. New Jersey: Prentice Hall, 1965. 46-47.
 6. Edwin M. Schur - Law and Society. New York, Random House 1967. 127-135.
 7. C. J. Dias - Research on Legal Services and Property: Its Relevance to the Design of Legal Services Program in Developing Countries. Washington University Law Quarterly, 1975, No. 1.
 8. Arnold M. Rose - The Use of Law to Induce Social Change. 6 Transactions of the Third World Congress of Sociology 54, 1956.

RESEARCH PROCEDURE

As has been explained in the previous chapter, the objective of this research is to determine the effectiveness of fixing the minimum marriage age in the Bangkalan Regency of Madura. In investigating the effectiveness of the law as specified in the Ordinance (Undang-Undang No. 1, 1974), we first look at the marriage frequency of the under-aged in the years before the implementation and after the implementation of the said marriage law.

When the marriage frequency graph of those who are under-age shows a tendency to decline it will mean that the law which was formulated has worked effectively. However, if the graph does not show a decrease it will mean that the said law is not working effectively. Apart from the study on its effectiveness, this research wishes to probe into the factors that correlate with the effectiveness of the law which is under study.

As it was an act which aims to change the behaviour of the society, especially where marriage is concerned, this law provided for a trial period of one year for the "preparation" of its implementation. Therefore, although the marriage law was announced as recently as 2 January 1974, it was only considered effective as of 1 October 1975. This research project was conducted on October 1 1977. Hence, the marriages that were studied were those which occurred between 1 October 1975 - 1 October 1977.

To study the development of marriages below the minimum age, we also needed similar data during the period prior to the application of the new marriage laws. We needed, at the very least, the data on the age at marriage for the two years preceding 1 October 1975.

The data that is needed for the first problem is the age of the female party at the time of marriage. This can be obtained by the data that is available from the documents that are recorded and kept at the Kantor Urusan Agama (K.U.A.),⁹ which is found in every district. The

9. Office of Religious Affairs

data concerning the age at a person's first marriage need not be obtained from the women themselves by direct questioning as such a method would involve time, expense and more labour.

In seeking data we have to consider the value of the data as compared to its quality. Even if we use the expensive method, the results obtained will not necessarily guarantee the quality of the data that is needed. This is because a brief observation will not enable one to ascertain a person's age accurately. Similarly with the interview, it is difficult to obtain correct answers. There is no cause to presume that the respondents in the research cannot be held for the accuracy of their responses, but because we can understand their position. In general, they live in the rural areas and the average level of education is low. Where their date of birth is concerned, they rarely need to know about it such that they easily forget their own birthday. If both methods of collecting data as mentioned above cannot be used, evidently there is only one method which is available and that is documentary study.

Although the law arranged for the provision of the minimum marriage age for both sexes, in this research we do not need data on the age of the male party. This is because the age of the men will not have an impact on the level of births in the community. The law states that each individual who married should register with the officer of the Marriage Registry at the Office of Religious Affairs or at the local Civil Registry Office. The Office of Religious Affairs was set up for the Muslims whereas the Civil Registry Office was set up for those who embrace other religions, especially Christianity.

Although at present there is only one marriage law in Indonesia, yet the execution of marriage registrations is not performed by one body alone. There are two authorities that handle marriage registration. They are the Office of Religious Affairs and the Civil Registry Office (Kantor Catatan Sipil). The Office of Religious Affairs is set up for the Muslims and the Civil Registry Office is for the non-Muslims.

Prior to the new marriage law, the Islamic marriage law was applied to the Muslims. The non-Muslims were subject to the marriage

laws found in the Kitab Undang Undang Hukum Perdata (KUHP)¹⁰. The difference between the two was that in the Muslim marriage law there was no specific minimum marriage as opposed to the KUHP. Thus the new marriage law represents a new norm which is unfamiliar to the Muslims. Hence if observed from the non-dogmatic law, the provision of this minimum marriage age should function as a tool of social change.

Taking the new law into consideration and keeping in mind the small population in the area of the research who were under the marriage laws stated in the KUHP, this research thus limits the seeking of its data to the Religious Affairs offices in the district of Bangkalan.

Bangkalan Regency which has been chosen as the sample area comprises 18 districts. Each district has a Religious Affairs Office. There are therefore 18 Religious Affairs offices in the area for the research.

To determine the marriage frequency graph of the under-aged does not require that data should be collected from each of the Religious Affairs Office. It is adequate to collect a specific amount of data to fulfil the minimal conditions. Since there are only 18 offices of Religious Affairs, the minimal sample that can be taken is 50% of 18, which is 9 offices of Religious Affairs. The simple random sampling technique is used to ascertain the choice of the nine Religious Affairs offices in the regency. Those chosen were in the following districts:

1. Bangkalan 2. Tanah Merah 3. Kamal 4. Socah 5. Tragah
6. Arosbaya 7. Klampis 8. Sepulu 9. Labang.

When the sampling was completed we moved on to the technique of data collection. There were three techniques of data collection that were collectively used in this research. The study of the documents is mainly to obtain data on the age of the women at the time of marriage. The interview technique coupled with observation is used

10. The Civil Code

to record data on the factors that influence the effectiveness of the law in question.

Not all data from the Religious Affairs Office concerning the age of the women at the time of marriage can be accepted at face value. The records that were made before the implementation of the new marriage laws may be accepted as valid. However, the records on the age of those who were married after the law was passed should be given careful attention. This consideration arises when one recalls that administration in the village is not completely in order, thus it would be possible for the people to hide the true age in order to marry.

Checking the age of those who married after the Ordinance No. 1 of 1974 was done by tallying the date of birth given with that which is registered in the village population register. This procedure is quite difficult but it appears to be the best method compared to others. It is insufficient to study the documents at the Religious Affairs Office alone. The age of the brides that have been recorded have to be rechecked with the population register or the village census register. When there is a disparity in the age shown in the marriage registry with that found in the village records, it can be assumed that the law was eluded. For example, when a child is not yet of marriageable age, recording her as 16 years old or more would avoid difficulties in the marriage ceremony.

Data on the age of the women at their first marriage can be collected methodically. However, this does not always mean that data is easily obtained. During the framework of this research, obtaining correct data proved to be a difficult experience. The difficulty was already apparent while recording the data - age of the women - at the marriage registry of the Religious Affairs Offices. A large proportion of the records did not mention the date of birth but simply stated the age of the person concerned. Many left the column for the birth date empty - nothing was written. In addition, many names and even addresses of the parties concerned were not written explicitly. As a result of all this the problem which arose was difficult to overcome when the data that had been collected had to be rechecked.

According to the original plan the age of the women that was given in the marriage registry was checked against the birth date that should be recorded in the village population register. However, unexpectedly once more, the data on the age of the inhabitants that was needed for this research was not available in all the villages. Only a few villages had their village administration records in good order. Therefore, although the data concerning the age of the women were collected from the Religious Affairs offices in the sample, the work of checking the data in question had to be stopped halfway through the project. The verification of data from the Religious Affairs offices with data from the villages was too difficult to complete and we had to resort to another method.

Another technique of data collection to replace that which had been planned must still be directed at the aim of determining the effectiveness of the provision on the minimum marriage age. The method which was later adopted was a system of research which no longer depended on the quantitative data from documents but which placed more importance on data that was obtained from the interview and observation technique.

The measure of effectiveness in the provision of the marriage law no longer uses the marriage frequency graph of those who were married below the legal age. It is replaced by perceiving the object of this research from a different angle. We try instead, to determine whether the customary practice of child marriages - below 16 years of age - is still predominant or has weakened with the existence of the new marriage Ordinance. If the practice of child marriages is still strong after the application of the law this would then mean that the provision of the minimum marriage age has not yet worked effectively. The opposite may be assumed when the custom of child marriages weakens after the said law is in practice.

By stating the problem in such manner, the collection of data can be expedited by using the interview and observation technique. The respondents will be the headmen of the villages since they will definitely know about the customs that prevail in their village. As he represents the connecting link to the government, the headman or

village leader has a definite role in implementing the compliance of the law which is the object of this study.

The village headman has the authority to reject the "surat keterangan" (letter of explanation) which is required for a marriage if the child involved is below the marriageable age. The villagers cannot hinder the functional capacity of the village leader in the matter of marriage. According to the regulations in practice, only the village leader has the jurisdiction to write the Surat Keterangan for marriage on behalf of the inhabitants of his community. This Surat Keterangan is needed by every person who submits his request for marriage with the official of the Marriage Registry at the Office of Religious Affairs.

Apart from that function, the headman of the village informally holds a position that is highly respected in the community. A member of the community who intends to marry off his child will normally make it a point to invite the headman of the village to the wedding and to give his blessings to the marriage upon his attendance. In fact, in most of the villages in East Java the village headman is known as 'bapak rakyat' (the father figure). Taking into consideration the highly esteemed functions of the village leader in the community as mentioned above, it was thus decided that the source of data for this research would be the headmen of the villages. To improve the quality of the data, apart from interviews with the headmen of the villages, several villages that were in the research were also under observation.

After deciding on the source of the data, the next step was to determine the respondent sample. According to the method used for the choice of the sample of Religious Affairs offices - the sampling used for this research was the multi-technique stage area random sampling. First, the field of research was divided into population units. In this research the regency included 18 districts that were made into population units. The sample unit was determined through simple random sampling whereas the size of the sample was methodologically set at 50% of the whole population unit. The sample for the first stage therefore comprised 9 districts. There was a total number

of 143 villages in the sample of districts. Each district comprised several villages varying between 10 to 22 villages.

The next task was centered on each sample district. In the second stage of sampling the villages were divided into population sub units. The same technique of sampling was employed in determining the village sample. Hence at this second stage we no longer strictly adhered to the simple random sampling method. During completion of this stage we also retained the minimal 50% required for the sample. In fact, due to the possible decrease that could normally occur, an effort was made to collect data from all the villages that were in the district sample. Hence it was not ascertained beforehand which village leaders would be made respondents. All the village leaders in the sample districts were given equal opportunities to become respondents. All the village leaders were contacted during the period that the data was being collected.

Where the sample of village headmen that could be interviewed in a sample district was less than 50%, then we continued seeking data even though the time schedule for data collection had lapsed. However, where 50% of the village leaders had already been interviewed in the sample district but the time scheduled for the activity had not expired, the data collection was continued until the period scheduled was completed. Thus with the method of data collection stated above, we managed to interview 130 village leaders in the 143 villages that were contained in the sample.

The next stage which succeeds the choice of respondents is the preparation of the questionnaire. A questionnaire was formulated but universally we lacked the matching alternative responses. Once again we tried to define the parameter which was the object of this research so that a deeper insight would enable us to gauge the possible responses, categorise the alternative responses and then assemble the precodes. To determine the parameter involved, in addition to collating the efforts of the researchers who observed the culture of the community under study we also did exploratory study. Although the results cannot record the parameter in a precise manner, it is still very useful in the estimation and the definition of the categories for the responses. For this

reason, the questionnaire that was prepared was one structured on the questions and not fully structured where the responses were concerned. Practically half the questions that were formulated and included in the prepared questionnaire were open-ended in format.

As a result of the open-ended questionnaire the data obtained will evidently be unstructured. For this reason the data concerned will have to be structured first before they can be further assigned in the analytical process. In order to simplify categorisation - in the framework of the later analysis - we undertook several measures. For example, under each question several possible alternative responses were always provided, responses that the respondents were liable to give. Furthermore, a blank space was provided to record responses that could not be grouped under any of the available alternative responses.

The above-mentioned method proved useful and helped in overcoming problems that arose with this method. The meaning of the questions could be well understood by the interviewer yet the possibility of unstructured responses was allowed and well controlled.

Realising that formulating a questionnaire is similar to creating a data recording device, it therefore had to be done as well as possible. The preparation was begun at the very earliest stage. A team of nine people worked on the compiling of the questionnaire. They were chosen on several considerations among which were: their knowledge on the technique and method of research as well as their experience in the problems and conditions of society in the research area. In addition, the personnel of this research team were chosen from the Law Faculty of the University of Airlangga and they were descendants of Maduran people.

The preparation of the questionnaire involved several steps. The first step was literary research and discussion. Later there was a field trip to the research region, then a draft of the questionnaire was formulated. The team was divided into three smaller groups of three persons each during the preparation of the draft. This resulted in three sets of questionnaires which were tested through discussions and debates. The forum of discussion was needed to decide which questions were relevant, which questions needed to be reformulated and which alternative responses needed to be included.

As a result of the selective review of the three draft questionnaires and several conclusions that were drawn during the discussions, a trial questionnaire was prepared for testing. The new questionnaire underwent a trial before it was put into operation. The pre-test was conducted to determine whether the root of the questions were properly or poorly channelled. It was also to determine the degree of sensitivity of the questionnaire in provoking the true responses from the respondent. Eventually, the questionnaire was re-compiled and completed by testing it on several village leaders.

The next phase that was employed after the completion of the questionnaire was the collection of data. To prevent the questionnaire, which was structural in nature, from being inadequate, the team members of the questionnaire returned to the field. As they were directly involved in the preparation of the questionnaire it was felt that they were the ones who best understood what was contained in the questionnaire that had been compiled for this research. Each of them were designated as supervisors in the data collection from the villages in the sample districts. They chose their own assistants who were to collect the data. The number of field workers - recruited from the law faculty of the University of Airlangga - differed according to the number of villages in each district.

The research team collected its data through the nine individuals who were involved in the preparation of the questionnaire, and who at this stage acted as supervisors. Each supervisor supervised the collection of data in the area enclosed by a district. They were aided by several data collectors who were trained prior to the exercise. For each district there were only a few research officials - between 4 - 3 interviewers in each area. The number of field workers was kept small to facilitate communication and understanding as well as supervision and guidance by the field supervisors.

While still on the field, the supervisors did some editing. This editing on the field helped the data collectors to correct their work. It was possible that the data collector did not record clearly or that certain items on the questionnaire were forgotten. The data was further processed by coding. The final stage in the processing was the

tabulation of the data according to each category. This stage was completed without any significant difficulty.

The data was tabulated and information as well as meaning were drawn from the calculations as well as from the discussions. The results of the calculations will be reported in the next chapter. The results, interpretation and discussion of the findings will be reported in the following chapter.

FINDINGS OF THE RESEARCH

This chapter is divided into two parts which are inter-related. The analysis of the research findings will be presented by offering data that is empirical in nature. The first section does not make use of information that has been dug up from the field but contains that which is obtained from documents and the library. The first section functions as background information and is thought to have its usefulness in helping to understand the data that appears in the second section. The following is a presentation of the data on the situation in the area of the research.

- I. The island of Madura is included in the administrative region of Daerah Tingkat I, East Java. Situated in the east Java Sea it is separated from the island of Java by the Straits of Madura. It has an area of 5,168 sq. km., measuring \pm 200 km from the east to the west coast and \pm 40 km in breadth. The province of Madura is divided into four regencies viz., Bangkalan, Sampang, Pamekasan and Sumenep.

Bangkalan regency is situated in the west of Madura Island and has an area of 1,270.70 sq. km. It is divided into 18 districts viz., Bangkalan, Socah, Kamal, Kuanyer, Sepulu, Tanjung, Bumi, Klampis, Arosbaya, Geger, Kokop, Konang, Blega, Galih, Tanah Merah, Burneh, Tragah, Modung & Sukolilo.

The population of Bangkalan regency numbered 635,164 inhabitants in 1973, the density of population being 484/sq. km. The rate of population increase is relatively low - this does not mean that the birth rate is low but is due to a high level of migration.

The main source of income for the majority of the inhabitants in this area is farming (farmhands). They also work as traders/entrepreneurs, civil servants and labourers/employees of private firms. The employment of the inhabitants as expressed in percentage in the year 1977 is as follows:

- farmer (farm labourers) : 80%
- trader/entrepreneur : 8%
- civil servant : 3%
- labourer/private employee and others : 9%

The per capita income of the inhabitants is only Rp.12,000/- whereas that of the inhabitants of East Java is Rp.33,700/- and the National Income is Rp.37,350/-

The language used in daily affairs is Bahasa Madura (the Maduran dialect). The majority of the people who live in the rural areas are not yet able to speak bahasa Indonesia, the national language. This factor probably plays a part in hampering communication with the outside world.

99% of the Bangkalan inhabitants embrace Islam. Among the 'santri' community (students who undergo religious education), the teachings propagate "God's blessings". The followers believe that man's success is merely due to God's mercy. The Islamic ethics of direct responsibility to God, truth in sharing, hard work, skill and perseverance is also mirrored in the teachings. In this region, the 'ulama' or 'kiyai' (Muslim scholar or religious teacher) plays a very important role.

The customs in the villages that are encompassed by this research in essence, hardly differ from one another. As has been related by Anke Niehof, there are very few girls under 20 in Pasean district who are not married. Instead, according to his calculations, 46% of the girls in the village who are married were wed when they were below 13 years of age.

What Niehof discovered seems to be related to the idea of maturity in marriage according to the customary way of thinking. That marriage is regarded not only as the pairing of a husband and wife but also as a process of making the married child an adult. With this concept in mind, the parent who wishes to marry off his child does not need to wait until the child is actually an adult. For this reason it is natural that a newly wed couple is not ready to manage its own household. The couple continues to stay at the parent's home until they can afford to keep a household of their own. In a region where such a custom prevails, the question of the choice of marriage partner

is rarely a personal affair but one which is considered as a family problem. The matching process of bride and groom even goes as far back as early childhood.

II. From the earlier chapter we know that the effectiveness of a certain law may be seen from the changes in attitude of the population which is subject to the law. Where a certain law succeeds in changing the attitude of the population into conducting themselves as required by the law, it means that the provision of law has worked effectively. It is difficult to measure the exact degree of effectiveness of a law. As a quantitative measure the application of the law may only be differentiated as: effective, quite effective and, not effective. Such a difference is determined by the number of inhabitants who obey or disregard the law in question. In other words, the larger the number of people who obey the law, it would mean that the law is working effectively. Similarly, if the number of inhabitants who obey the law is smaller it would mean that the law is not functioning effectively.

The effectiveness of the proviso for the minimum marriage age in Bangkalan regency, Madura, may be determined by the marriage frequency of the young girls in the area in the years before and after the existence of the Marriage Ordinance No. 1, 1974. As has been explained in Chapter II, obtaining data on the marriage frequency of those below 16 years of age, whether before or after the Marriage Ordinance was extremely difficult.

The first hypothesis from this research states that the implementation in the provision of the minimum age limit for marriage in Bangkalan regency - Madura, is not fully effective. The test against this hypothesis was carried out by combining three types of technique in the collection of data ie. interview, documentary study and observation. The results of the interviews with 130 respondents may be seen in the following table:

Table 1

Age classification of the younger brides in the village,
as expressed by the village headmen (n=130)

Age of bride	Marriages that occurred in the age groups as specified below, according to the headman	
	frequency	percentage
10 years	8	6.15%
10 - 11 years	5	3.87%
11 - 12 years	3	2.30%
12 - 13 years	15	11.54%
13 - 14 years	3	2.30%
14 - 15 years	22	16.92%
15 - 16 years	28	21.54%
16 years & above	46	35.38%
T O T A L	130	100%

The above table shows that at the time of the research (1977) there were 35.38% of the villages in Bangkalan regency in which the inhabitants no longer performed the custom of marrying off their children who were below 16 years of age. However, in the majority of the villages in Bangkalan regency, 64.62% to be exact, there still were under-age marriages. The data becomes more convincing when we discovered further, from more than half of the village leaders - 56.92% of the village headmen to be exact, that child marriages are practised not only by other members of the community but also by the village headman's family and by his relatives.

When seen from the aspect of the experience of the village headmen in the field of marriage customs, it is not surprising if headmen or his relatives still continue to carry out the marriage of their children who are minors. The majority of the village leaders are only knowledgeable about the prevailing customs in their own village. Not many of them seem to know that in other regions the community disapprove early marriages.

The data obtained in this research proves that 73.85% of the village leaders have never lived in a town or city. Only 3.85% of the

village leaders had lived in a big town but it was still in the island of Madura. The experience of such urban living did not help very much in widening their outlook and their closed knowledge regarding their traditional customs. This is because the urban residents too regard child marriages as something natural. Hence, almost 88% of the village leaders still could not compare the culture in their district with that of another place.

A proportion of other village leaders said that they had lived in towns outside Madura Island. Though this group had lived and socialized in a different communal milieu, it appears that they still carry with them their original culture. Consequently they are unable to part with the custom of marrying off their children at an early age. Such marriage practices are made known from the information obtained in the big towns and cities such as Surabaya, Malang and other towns that fringe north-eastern Java-towns that are close to the island of Madura.

Within the realm of testing the first hypothesis, the study of documents in the Pengadilan Agama Bangkalan (Religious Court of Bangkalan) which has the authority to permit marriage to those below 16 years of age - provided data that, decidedly, was not in contradiction with what was explained above. According to the provision - Article 7, line 2 of the Marriage Ordinance No 1, 1974 - the family of the bride concerned who did not want to postpone the marriage until the bride reached 16 years of age should seek the marriage permit from the Religious Court. In accordance with the existence of such a clause, there should be many applications at Religious Court for such marriage permits. However, in fact, it was not so. Although the law allowed this opportunity - through a formal regulation - to marry off a child below the age limit, yet there were signs that apart from this regulation, the marriage practice that deviated from the law was still being practised.

The records for the first year at the Religious Court of Bangkalan, for the entire regency and since the implementation of the law showed only 35 applications for marriage permits. In the second year there were only 17 such applications. The total number of requests for marriage permits could be a subject of discussion in itself, especially

when there were only 27 such cases during the period of this research. Although the total number of such applications for marriage permits and the material for the study of such documents is far from satisfactory, in any case, the data will be used to test the first hypothesis. Based on the documents at the Religious Court of Bangkalan, we learned that child marriages of those between 11 - 15 years of age is still in practice, the mode being 12 years of age.

Table II

Age classification of the brides based on the applications for marriage permits at the Religious Court of Bangkalan (n=27)

Age of bride	Frequency	Percentage
11 years	1	3.70%
12 years	10	37.04%
13 years	9	33.33%
14 years	3	11.11%
15 years	4	14.81%
T O T A L	27	100%

Apart from seeking data through interviews and study of documents, the other technique used in this research was that of observation. As a result of informal observation and interviewing in several villages - eg. Klabetan village in the district of Sepulu, it was learned that - since the period prior to the implementation of the Ordinance No. 1, 1974 up to the time that this research was conducted, marriages between under-aged boys and girls were still found. The village leaders released the permits for such marriages based on the criteria of "adulthood" that applied locally.

For the girls, the onset of puberty was the measure of adulthood (generally before 16 years of age). The standard for level of adulthood for the girls was based on the teachings of Islam which does not restrict the marriage of children below 16 years of age. Hence, according to the viewpoint of the village leader whose thinking is still orientated to the local customs, there was no reason for him to prohibit marriages of children who were below 16 years of age.

Where the boys are concerned, the measure of adulthood seems to be only traditional in nature, ie. based on the local custom. A male child is regarded as an adult when he is able to earn his living or when he is able to work, this concept being known locally as "koat mekol".

The data from Soket Daja village in the district of Tragah showed that in 1977 there were two girls who were married below the legal age. They were 13 year old and 14 year old children. In Karang Leman village of the same district, there was an 11 year old bride. In another village - Soket Lho' a 15 year old boy married an 11 year old girl. This data was obtained after several stages of interview. The information was first obtained from a village leader, then a close neighbour of the couple was interviewed and finally the couple was interviewed during which time we observed their youthfulness.

Marriages of children who are below 16 years of age has become a common occurrence in the area of research. The community no longer regards such a marriage pattern as something unusual. This pattern of marriage occurs naturally and normally receives the blessings or at least the sympathetic approval of the community leaders. Hence it is not a wrong assumption if this research formulates a hypothesis on the factors which influence the effectiveness of the minimum marriage age and includes the local customs as a factor. The custom of children marrying at a relatively early age is steeped in the philosophy of the community.

We are able to determine that the prevailing custom has not weakened since the introduction of the Marriage Ordinance No. 1 of 1974 by the reasons given by the inhabitants who will marry off their children. The data in the next table shows that only 22.32% of the reasons given for an early marriage is based on economic considerations. The response of the remaining 77.68% gave reasons that are related to the local customs.

Table III

Reasons given by the inhabitants who marry off their children below 16 years of age

No.	Main reason	Frequency	Percentage
1	Honour is concerned	38	29.23%
2	To foster family ties	35	26.92%
3	Economic reasons	29	22.32%
4	To have descendants as soon as possible	10	7.69%
5	Religion permits marriage when the girl has reached puberty	10	7.69%
6	Due to pressure from the groom	7	5.38%
7	No response	1	0.77%
T O T A L		130	100%

The data in the above table actually gives a picture that is similar to that of the data obtained from the study of documents at the Religious Court of Bangkalan. From the list of applications for marriage permits, 6 main reasons were found to be predominant. By using two or more of the predominant reasons, the applicant requests the permit for the wedding to take place although the legal marriage age is not fulfilled. The data on the reasons for the request of the marriage permit at the Religious Court of Bangkalan, according to the degree and frequency in the use of each given reason is shown in Table IV below.

Table IV

Reasons for application of Marriage Permit for those below the legal marriage age	Percentage of applicants who gave this reason
1. Have been engaged for a long time	59.26%
2. Intimate relations between the two individuals involved	55.56%
3. Custom	18.52%
4. To avoid calumny	11.11%
5. To strengthen family ties	3.70%
6. To help the younger ones in the family	3.70%

The table shows only one reason - ie. the last one - which is economic in nature. Even then, this reason is the one which is used least. The majority of the applicants tend to give reasons based on the local custom. Hence it appears evident that one of the main factors that greatly influence the effectiveness of the minimum marriage age law in the research area is the prevailing custom. The data given in Tables III & IV prove it. The people who utilise the institution of the marriage permit - for those who are below the legal age as specified by the law - almost always gave reasons that were linked to the custom. In other words, tradition is strong enough to hamper the realization of a law which aims to modernize the behaviour pattern of the residents of a community.

Apart from the angle of restriction, a provision of law cannot hope to work effectively when its mobility is slow. A new law should at least be known by the community, especially by those who will be affected by it. For this reason, the enactment of a law should be rapidly dispensed from the source to the remote corners of the region. In relation to this, it is essential to know the situation where communication of law is involved, especially the provision of the minimum marriage age in this research district.

Table V which follows shows that only 25.38% of the village headmen in the district knew the exact minimum age limit for marriage. The majority may be considered as ignorant of the exact provision of the said law. Although there were those among this last group who said they knew of the existence of the minimum marriage age law they were uncertain about it. Thus they were grouped together with those who did not know that the minimum age limit for marriage as set by the law is 16 years for the girls and 19 years for the boys.

Although this marriage law was given the opportunity to receive widespread attention from the community several months before its birth, it appears that only a superficial layer and especially in the big towns only - were involved in the discussion and debate concerning the marriage law. In the lower levels of society, especially the rural communities, it appears that the situation seems to differ. Not only the common people, some of whom are illiterate, but even the village leaders - did not always know of the new Marriage Ordinance.

The knowledge of the village leaders in connection with the minimum marriage age law becomes clear when compared to the communication situation in the area under research. The communications between the capital town of the regency and the districts is generally satisfactory. There is a main road that connects the towns. However, it is not the case in communications between the district towns and the villages. Although the distance is closer, the infrastructure of communications is not as good as that between district and regency level, hence the communication between the district and villages is relatively slow.

Table V

Classification on knowledge of the minimum marriage age law of the people who implement law (village leader) (n=130)

Classification of headman's knowledge	Frequency	Percentage
1. Aware of law and is able to quote correct age limit	33	25.38%
2. Aware of law but quotes an age limit above that which is stipulated in Act	42	30.31%
3. Was not aware or stated an age which is below that stipulated in the Ordinance	50	38.46%
4. No response	5	3.85%
T O T A L	130	100%

The slow communication of the law is easily understood since the infrastructure in the rural sector generally does not allow for fast movement. The next table will illustrate this.

Table VI

Means of transport normally used by the village leader to travel to the district town (n=130)

Means of transport	Frequency	Percentage
1. Walking	53	40.77%
2. Bicycle	34	26.15%
3. Public transport	27	20.77%
4. Motor bike	16	12.31%
T O T A L	130	100%

From the above table we learn that the village leaders who own the most effective means of transport - ie. motorbike - only number 12.31%. Second to that are those who own bicycles. By using this modest means of transport, communication of the upper group as well as the commoners manage to function albeit slowly. The village leaders who make use of public transport seem to be able to move faster but in actual fact this is not true. The speed of their movement is limited to the roads which are passable to public transport. The areas which are away from the public transport route will have to be negotiated on foot. Apart from the areas that are accessible being very limited, the public transport in question can only be used when the village leader has money; if he happens not to have money he will have to walk from the village to the district office even though the distance is far.

After determining the quantity of the village leader's knowledge concerning the minimum marriage age law, the next problem which crops up is determining how far the said law befits their perception of it. Through this research we can see that 30.77% of the village leaders were able to give clarification with regards to the relationship between the enactment of the said law and the population problem. The role of the law in relation to the population problem was more difficult for them to understand than its role from the viewpoint of health. As many as 44.62% of the village leaders were able to clarify the relationship between marriage at a young age with the possibility of the health being affected.

The measure of knowledge of the village leaders on a qualitative basis as mentioned above is meant to foresee how much the village leaders may be depended on to carry out the said law by basically being firm about it. This is because without such an attitude the actions of the village leaders will continue to be coloured by the local customs.

The difficulty of the village leaders in connecting the effect of the minimum marriage age law with the population and health aspect is understandable because in general, their level of education is still low. Only 10% had education at a junior secondary school level whereas the 90% achieved their highest level of education at an elementary school.

The table below illustrates the educational situation of the village leaders in the area of research.

Table VII

Classification of education of the village leaders
in Bangkalan Regency, Madura (n= 130)

Level of education	Frequency	Percentage
1. Did not go to school	17	13.08%
2. Did not complete elementary school	59	45.38%
3. Completed elementary school	41	31.54%
4. Did not complete junior secondary school	10	7.69%
5. Completed junior secondary school and above	3	2.31%
T O T A L	130	100%

The next test was carried out by observing the percentage of village leaders who felt that they were obliged to prohibit or prevent marriages of those below 16 years of age. The results decidedly show figures that happened to be similar, ie. a total of 44.62% of village leaders felt this obligation to practise the law in question whereas a large proportion of them appointed other officials, who they felt, should have the duty of prohibiting marriages below the legal age.

An individual who has a position in society, whether formal or informal, cannot always do something which befits his wishes. Many factors contribute to an individual's attitude. As a result, we cannot assume that a duty, which is understood to be one of his obligations, will be implemented. In such case there can arise an attitude that could possibly differ from the obligation that he is aware of. The application of the law which is the focus of this study, also experiences the same fate. Not all law enforcers (village leaders) manage to observe the minimum marriage age law, or even harbour attitudes that befit the meaning of the written law.

The data obtained in this research states that 44.62% of the village leaders felt the obligation to the law but only 26.15% were firm in realising the said law. The table which follows is on the qualification of attitude of the village leaders which we obtained by asking them what steps they would take should there be a request for a Surat Keterangan by the parents of the under-aged bride/groom.

Table VIII

Classification of attitude of the village leaders
in the granting of a Surat Keterangan for the marriage
of girls who are below 16 years of age (n= 130)

Attitude of village leader	Frequency	Percentage
1. Refuse the request	34	26.15%
2. Transfer the matter to the Office of Religious Affairs	43	33.77%
3. Give an introductory letter to the Religious Affairs Office	25	19.23%
4. No response	28	21.54%
T O T A L	130	100%

The attitude of the village leader in the matter of requests for the explanatory letters of marriage is made the indicator because according to Article 6, Paragraph 2 of the government regulation of the Republic of Indonesia, No 9, 1975 concerning the execution of the Ordinance No 1, 1974, the Officer at the Marriage Registry is obliged to check the copy of the birth certificate or the letter of authority stating the date of birth of the bride/groom. Where there is no birth certificate or letter of authority, a letter of explanation which states the age and origins of the party concerned which is given by the village leader or a similar authority may be used. Based on the above, the position of the village headman is therefore quite important in determining the marriage process of the community. This is because the granting or rejection of the application process - formally - of marriage depends on the information that is written by the headman in the letter of explanation for marriage.

The headman's attitude as stated above can be divided into three groups. First, the group who firmly refuse the request for the letter for those who need it on behalf of under-aged children. There were only 26.15% of village leaders who had this attitude.

Second, the group of village leaders who grant the letter to the applicant. The village leaders involved here are perhaps unable to break off from the local custom. They continue to accept the marriage process that does not conflict with local custom - how they do so is simple. All they have to do is write out an authoritative letter of explanation stating that the person is old enough for marriage so that there will be no problem with the Religious Affairs Office to legalize the marriage. A large number of the village leaders have this attitude. 19.23% of the village leaders have given such letters whereas 21.54% have that attitude but did not state having been personally involved. They included those who did not give an answer during the interview but through observation it was noted that they would not want to object to the local customs. Hence this second group makes up 40.77% of the respondents.

The third group encompasses those whose attitude was neutral. These village leaders gave letters of introduction for the marriage concerned to the Religious Affairs Office but stated the correct personal data of the parties to be married. The letter will state the actual age of the individual concerned, even when, according to the law, it is below the minimum age required. These village leaders leave the matter of whether the marriage will or will not take place to the head of the Religious Affairs Office. 33.37% of the respondents held this view. It appears that such an attitude is the safest because they will not feel the burden of violating either government law or Islamic law.

Apart from these three groups, we obtained information through informal interviews, that in several places there were events involving simulation with the aim that the marriage of the under-aged party could be conducted quickly. One such practice is the pretence of having caught the couple in fornication. On the pretext of such an act the village leader would request that the culprits be responsible by insisting that they get married immediately. Based on the context of

such a letter from the village leader it would be difficult for the officer at the Religious Affairs Office to reject the request for their marriage.

The difficulty of implementing the marriage law is also drawn from talks with several of the village leaders. Nevertheless if a village leader feels obliged to enforce the marriage law in the village, there is a possibility that there will be difficulties in controlling his staff. The staff that attends to the religious and marriage ceremonies is the 'pak modin' (one who calls to prayers, ie. the muezzin). When the 'pak modin' does not agree with the village leader, it could mean that the marriage custom will continue to stay.

In general, the members of the community who intend to marry off their children, will first and foremost contact the pak modin. It has become his duty to arrange the administrative part of the marriage. Before reporting to the Religious Affairs Office the party concerned has to obtain a letter of recommendation for the marriage from the village leader. However, when they are afraid that the age of the individual concerned does not meet the requirements and would pose a problem, they normally do not ask for the letter from the village leader. Instead the parent of the child concerned goes personally to meet the head of the Religious Affairs Office and they will normally have a discussion on Islamic law. As long as the parent and pak modin state that the child who is to be married is already 16 years old, there will be no barrier to proceeding with the wedding ceremony.

The implementation of a new law cannot be separated from the socio-economic factors which exists in the community. Seen from the economic situation it can be understood why the law in this research area is not yet effective. According to the situation, villages in Bangkalan regency can be classed into three groups: Swadaya, Swakarya and Swasembada. Apart from these three classes, this research shows that there is a lower level known as the Praswadaya class of villages. The composition of villages in each classification is shown in table IX:

Table IX

Composition of the villages in Bangkalan Regency
according to the socio-economic situation (n=130)

Village classification	Frequency	Percentage
1. Pra Swadaya	30	23.08%
2. Swadaya	88	67.69%
3. Swakarya	10	7.69%
4. Swasembada	2	1.54%
T O T A L	130	100%

From the above table we see that the Pra Swadaya and Swadaya villages total 90.77%. A Swadaya village means a village that is traditional in nature where their customs and traditions are inter-related, human relations are very close and social control is based on family. In the Swadaya class of villages the source of income of the inhabitants is similar (homogenous) and they earn just enough to fulfil their primary needs. The level of technology is still simple hence their productivity is low. And in the villages of this class, the infrastructure is still scarce and simple. The above description explains that a Pra Swadaya village in itself is below the conditions of a Swadaya village.

The abovementioned data also shows that the number of Swakarya and Swasembada villages total only 9.23%. It means that in these areas there is a more progressive precondition for the law to work effectively. Hence, in conjunction with the percentage of the Swadaya and Pra Swadaya villages, the degree of effectiveness of the law in the research area cannot be hoped to be too high.

A DISCUSSION ON THE FINDINGS OF THE RESEARCH

An attempt at making a government law efficient, cannot be forced on the society without taking into consideration the social values that exist in the community. In the practice of a law, it is not unlikely that conflicts with the local custom will arise. Such a situation might hinder the performance of the several regulations that are contained in an act.

It is obvious that such a phenomenon will result in the failure of achieving the aims for which the act of law was enacted. From this it can therefore be understood that local social cultural values are an important factor in the effectiveness of a law which has been intentionally formulated by the government. The attitude of the community, especially the leaders, will greatly influence the execution of a specific law that is being assessed. An important observation that can be drawn from the data presented in the preceding chapter is that social development through law implementations may encounter obstacles, even heavy objection, from the community itself. As has been concluded in this research, local custom - which is the backbone of community living - is quite powerful in hindering the realization of the minimum marriage age law as required by the Ordinance No. 1, 1974.

Although the minimum age has been set at 16 years for the female party and 19 years for the male party - as written in Act 7 paragraph 1 of the Ordinance No. 1, 1974 - yet this law is constantly being broken. It is obvious that such defiance of the law will need impartial handling without disturbing the justice that is felt by the community.

Law as a method of changing the behaviour of the community has two channels of approach: the direct channel and the indirect channel. Law that endeavours to change a community directly - that intends to deal with firmness in the aim of the law - often meets with heavy opposition, until the results that are hoped for take a longer time to be achieved. Whereas if it were indirect it would probably be more successful because the social attitude of the people who are involved will be directed at the aim that is hoped for. This is done by using changes or regulations in other aspects, but which are still closely linked to the aim in mind. For example, to reduce the number of

marriages it is easy to make a regulation that makes it a burden - such as raising the fees and making it quite substantial - for those who marry below 16 years of age.

The law which is the object of this study actually has every reason to be obeyed in every level of society. The creation of this new norm was based on rational motives. It is not only juridicial in nature but took into consideration the biological, psychological, economical and demographical factors. However, it appears that all the above-mentioned considerations have not been transmitted as yet in the same direction as the traditional lifestyle of the community where marriage below the legal age is still a cultural inheritance which is difficult to forsake.

Child marriages have been part and parcel of the people of the community in this locality. They have become a tradition and have been accepted as a natural phenomenon and are not regarded as a disgraceful act by anyone in the community. To be precise, from time to time such child marriages have never been impeded by any kind of obstacle, whatever the origin. Hence such a habit made the community believe that the values they hold should become one of the cultural customs that they must maintain.

The facts that presents itself in this research is that the community in Bangkalan regency would give respect to traditional values rather than obey government laws. Even the government representative of the lowest echelon - especially the village leaders - are unable to make effective the law as enacted in the new Marriage Ordinance. This is obvious since children below 16 years of age are still being married without any obstacle or meaningful opposition. Yet, the village leader, who acts as the government tool, who knows more of the bride/groom should be able to take preventive measures, because however minimal his power in the marriage concerned he still has the authority to refuse the marriage permit required by a bride or groom who does not meet the age requirement.

The tendency of the village leaders to allow the practice of marriages below the legal age is supported by the traditional values

which are still sanctioned. Furthermore, the community in this research area has a very firm outlook in fighting for what they regard as their rights. This special characteristic has often led to killings with a sharp weapon. The bloody incidents may be carried over from father to son. There are still incidents where a son avenges the death of his murdered father - repaying the life taken by killing his father's murderer. The custom which in national terms is unhealthy will continue to colour the other acts. Where an individual has stated his intention to marry off his child he will feel ashamed if his intentions, which do not conflict with the local custom, cannot be carried out. Not being able to realize his plan might be a result of the prohibition by the officer at the Marriage Registry or some other official. The person who has to bear the shame due to the rejection or the postponement of his plan might bear a grudge against the official involved and threaten the official whom he considers as having complicated the affair.

The strong characteristic of the people of Madura greatly influences the officials on duty. The officials often find themselves in a difficult position. Should they apply the law they would have to face the consequence of encountering an attack with the sharp weapons of the parties involved. And when they continue to be bound to the customs it would mean that they have failed in their duty to carry out the law of the government. In other words, they are unable to perform their duty in helping to develop a pattern of behaviour that has been outlined by the government.

Pressure on the village leaders and the officials at the Marriage Registry is one of the reasons that cause them to accept the requests of the interested parties. Several such similar actions have been proved to influence their attitude, such that the Ordinance to erase child marriages in all levels of society cannot yet be hoped to become a natural reality.

It is evident that in several places there is a tendency for the village leader and official of the Marriage Registry not to have fully endeavoured to change the outlook of the community in relation to child marriages. Yet, when seen from the technical viewpoint of the

application of the said law, the village leader holds a high position and functions as the link in its implementations against child marriages.

The attitude of the village leader which does not fully support the effectiveness of the minimum marriage age is influenced by several other factors among which is their level of knowledge. Their understanding of the advantages that are contained in the law is still unsatisfactory. This factor is linked to the policy which is generally implemented by the village leader.

The stand taken by the village leader as pictured above has been proved to be supported by one other factor which is just as important, ie. the institution of the birth certificate is not universal. It is evident that this poses a serious problem that should be given attention. Without the birth certificate the village leader is faced with a heavy burden when he has to give details of the age of the person who intends to get married.

Apart from the several aspects that have been included above, there is still another form of weakness that requires attention and that is the determining of the sanctions which are incomplete. The sanctions that are listed in the Marriage Ordinance are still lacking in effectiveness in the success of the new law. Act 45 paragraph 1a of the Government Regulations no. 9, 1975 evidently only threatens sanctions against the official who registers the marriage. The party that marries below the legal age is free from the sanctions. It is evident that such a system of sanctions will not be able to achieve the desired target, such that it is difficult to win the fight against child marriages on a satisfactory basis.

The seriousness of the sanctions according to Act 45 as mentioned above is, we feel, too light, such that it is not complementary to the consequences of the defiance that arises in the community. However, this does not mean that making heavier sanctions will determine that the aim of the law will be realized. This is because it often happens that when sanctions are made heavier, there will be even more people who defy the law.

Even with the appearance of a form of sanction as mentioned above, it is difficult to hope that it will act as a firm check in preventing the flow of marriages below the legal age. It probably would be better to make sanctions that are aimed at every male who marries a girl who is below 16 years of age. Perhaps with such a method we could hope for a growing and positive participation from the residents of the community. It is obvious that such an effort should be accompanied by other measures that are in similar vein, for example, by perfecting the method of delivering a new law so that it will be obeyed by the residents of the community. Apart from that, the productive function of the village leaders can be raised by increasing their knowledge of the law extensively.

Efforts that are complementary to each other are greatly needed to achieve the aim of the new law. The realization to obey as well as endeavour in the implementation of Ordinance No. 1, 1974 is not only limited to the mental approach of the law enforcers, but it should also be mobilized into all other endeavours so that the community will, in the process, fully support the law. The society should be made to understand the benefits of a law which is aimed at improving the lives of the people and which also endeavours to raise the standard of living of the nation. Actually such endeavours are not limited to the Marriage Ordinance alone. It appears that other laws too still need serious management. It often happens that a society, especially the lawmakers, will devote their total attention during the formulation of a law, but after its enactment they generally slacken their efforts to control its effectiveness. And yet an act of law - for example, the law on the minimum marriage age - is extremely necessary in supporting the development of the community.

The above analysis is not supposed to mean that the law in question has no influence whatsoever. We acknowledge that the influence is present but it is still obscure in nature. The prospects are still doubtful. The vibrations that arise from the said law is still weak, e.g. we notice a feeling of fear in openly violating the new legal norm. This reflection of fear is what causes the practice of false declarations to evade the law.

The fact that there is evasion of the law leads to the belief that the people realise that they have violated the law but they dare not do it openly. Although their viewpoint is based on hereditary custom, yet they want to carry out their plans in a manner that will not bring about confusion in society. The same situation is seen in the attitude of the village leaders. In general they adopt a neutral approach when they issue the "Surat Keterangan" which is needed by the party for his marriage; ie. they transfer the whole matter to the head of the local Religious Affairs Office.

The effectiveness of the minimum marriage age law can be hoped to function fully when it is supported by other endeavours included among which is raising the level of understanding as well as the awareness of the village leaders. This is important because they are the government representatives who are at the forefront of the community and who are directly in contact with the people. When their awareness and attitude can be cultivated, we can hope for a positive impact on the people. Even today we submit that the village leader is a figure of strong influence on the community.

There are other measures that may be mentioned in relation to the efforts to make the people understand the meaning of the Ordinance No. 1, 1974. Up to this moment the capacity to reach the people is lacking. If all the efforts were combined together and then united with the effort to raise the awareness of the community we could probably hope for positive results. There is no denying that to achieve the desired aim we need a perseverance of effort supported by people who are fully aware of the importance to make effective the law on the minimum marriage age requirement as written in the Ordinance No. 1, 1974.

CONCLUSION

We do not need to adhere to only one school of thought where the difference in thought on the function of law is concerned. It is better to combine the functions of law, as a tool of social order and as a tool of social change, so that the community will not be passive and social stability can be maintained. By combining these two functions of law we could create a condition whereby social communication will be harmoniously interwoven in a dynamic society.

The application of law as a tool of social change has its limits. In the enactment of laws which involve family life, it would be impossible to prevent conflicts between traditional values and the modern values that are upheld by the national law. Apart from the deeply rooted customs of the community, the majority of the officials whose function is to put such laws into operation seldom do so.

The reasons why these officials do not practise the law is because some of them do not yet know of its existence. Among those who know of the law, not everyone understands the purpose that is behind the law. It does not stop there; among those who understand the importance of the new law only a proportion are brave enough to act in consequence of implementing the law to change the pattern of child marriages. Under such conditions it would be difficult for the national law to work effectively.

To evaluate the effectiveness of a particular law we do not need to wait for several years because whether it is effective or not a law does not depend on the time factor alone. The several years that a law is put into operation will be meaningless if it is not given serious attention. It is best that a systematic and controlled assignment is conducted, even though the law has been implemented recently to give a projection for the future, of the results of the law.

Apart from what has been written above, it would be impossible to fully realize the application of the minimum marriage age law as long as the administration for the registration of births does not arrange for the authenticity of birth dates. If this condition is not fulfilled then it could be said that it presents the first stage of weakness of

the law concerned as it will always provide the loophole for those who wish to evade the law.

A law which is formulated as a tool of social change will definitely possess characteristics that differ from a law which only just reflects the social condition. A law which in essence is meant for social engineering will generally require a sufficiently long period of time to be rooted into society. Before it can obtain moral support from the people, this innovative law will have to be supported by the institution of sanctions in order to proceed with the implementation of the application of the law. The institution and sanctions mentioned should not be just a threat to frighten the people, but should be one that can actually be applied and help the development of obedience of the community. Yet such an institution is not found in the Ordinance No. 1, 1974.

The weaknesses and shortcomings of the new Marriage Ordinance have resulted in poor effectiveness of the minimum marriage age law in Bangkalan Regency, Madura. Hence the effort put into formulating the law to shorten the period of reproduction of the women in the research area has not succeeded in achieving the desired aim. This means that jurisprudence has not taken a definite role in the efforts to overcome one of the problems of population today.

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SEAPRAP

THE SOUTHEAST ASIA POPULATION RESEARCH AWARDS PROGRAM

PROGRAM OBJECTIVES

- * To strengthen the research capabilities of young Southeast Asian social scientists, and to provide them with technical support and guidance if required.
- * To increase the quantity and quality of social science research on population problems in Southeast Asia.
- * To facilitate the flow of information about population research developed in the program as well as its implications for policy and planning among researchers in the region, and between researchers, government planners and policy makers.

ILLUSTRATIVE RESEARCH AREAS

The range of the research areas include a wide variety of research problems relating to population, but excludes reproductive biology. The following are some examples of research areas that could fall within the general focus of the Program:

- * Factors contributing to or related to fertility regulation and family planning programs; familial, psychological, social, political and economic effects of family planning and contraception.
- * Antecedents, processes, and consequences (demographic, cultural, social, psychological, political, economic) of population structure, distribution, growth and change.
- * Family structure, sexual behaviour and the relationship between child-bearing patterns and child development.
- * Inter-relationships between population variables and the process of social and economic development (housing, education, health, quality of the environment, etc).
- * Population policy, including the interaction of population variables and economic policies, policy implications of population distribution and movement with reference to both urban and rural settings, and the interaction of population variables and law.
- * Evaluation of on-going population education programs and/or development of knowledge-based population education program.

- * Incentive schemes — infrastructures, opportunities; overall economic and social development programs.

SELECTION CRITERIA

Selection will be made by a Program Committee of distinguished Southeast Asian scholars in the social sciences and population. The following factors will be considered in evaluating research proposals:

1. relevance of the proposed research to current issues of population in the particular countries of Southeast Asia;
2. its potential contribution to policy formation, program implementation, and problem solving;
3. adequacy of research design, including problem definition, method of procedure, proposed mode of analysis, and knowledge of literature;
4. feasibility of the project, including time requirement; budget; and availability, accessibility, and reliability of data;
5. Applicant's potential for further development.

DURATION AND AMOUNT OF AWARDS

Research awards will be made for a period of up to one year. In exceptional cases, requests for limited extension may be considered. The amount of an award will depend on location, type and size of the project, but the maximum should not exceed US\$7,500.

QUALIFICATIONS OF APPLICANTS

The Program is open to nationals of the following countries: Burma, Indonesia, Kampuchea, Laos, Malaysia, Philippines, Singapore, Thailand and Vietnam. Particular emphasis will be placed on attracting young social scientists in provincial areas.

Applications are invited from the following:

- * Graduate students in thesis programs
- * Faculty members
- * Staff members in appropriate governmental and other organizations.

Full-time commitment is preferable but applicants must at least be able to devote a substantial part of their time to the research project. Advisers may be provided, depending on the needs of applicants.